



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/903,262	07/11/2001	Shoji Kito	32780	9434

29669 7590 04/13/2004

PEARSON & PEARSON, LLP
10 GEORGIA STREET
LOWELL, MA 01852

EXAMINER

SHECHTMAN, SEAN P

ART UNIT	PAPER NUMBER
----------	--------------

2125

DATE MAILED: 04/13/2004

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/903,262

Applicant(s)

KITO ET AL.

Examiner

Sean P. Shechtman

Art Unit

2125

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-8, 11, 12, 17, 18, 20-22 and 24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-8, 11, 12, 17, 18, 20-22 and 24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Art Unit: 2125

DETAILED ACTION

1. Claims 1-4, 6-8, 11, 12, 17, 18, 20-22, and 24 are presented for examination. Claims 1, 2, 3, 7, 8, 12, 20-22, and 24 have been amended. Claims 5, 9, 10, 13-16, 19, 23, and 25-37 have been cancelled.

Oath/Declaration

2. Objection withdrawn due to the amendment.

Drawings

3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: Fig. 1, element 33a.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

4. Objections withdrawn due to the amendment.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 7, 8, 13-15, and 20-30 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 3 recites the limitation "the operating time" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Art Unit: 2125

6. Claims 4, 11, and 12 recite the limitation "the number of times of the operation of the heating means" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

7. Claims 4, 11, and 12 recite the limitation "the operation of the heating means" in lines 3-4. There is insufficient antecedent basis for this limitation in the claim.

8. Claim 8 recites the limitation "the same cycle condition" in page 15 of the amendment filed on January 30th 2004. There is insufficient antecedent basis for this limitation in the claim.

9. Due to the vagueness and a lack of clear definition of the terminology and phrases used in the specification and claims, the claims have been treated on their merits as best understood by the examiner.

Claim Rejections - 35 USC § 102

10. Rejections withdrawn due to the amendment.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

11. Claims 1, 2, 6-8, 20, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,918,293 to McGeorge in view of U.S. Pat. No. 5,964,211 to Sargunam.

Referring to claim 1, McGeorge teaches a cooking utensil for cooking a food by using predetermined heating means (Col. 1, lines 64-67; Col. 4), said cooking utensil comprising:

(a) means for setting a maintenance time by arbitrarily setting a time for executing a maintenance item (Col. 18, lines 1-3; Col. 17, lines 55-62),

(b) means for informing a user of said execution time for said maintenance item set by said maintenance time setting means (Col. 18, lines 1-3; Figs. 1-5; Col. 5, lines 43-51), said

Art Unit: 2125

informing means displays a predetermined sign ("START TIME") on an operating panel of said cooking utensil for said heating means (Col. 17, line 67 – Col. 18, line 1; Col. 4, lines 10-16); and

(c) means for displaying a maintenance item ("CLEAN") after said predetermined sign is displayed in response to a predetermined operation of a switch provided on said operating panel (Col. 13, lines 36-53; Col. 10, lines 6-42).

McGeorge clearly teaches arbitrarily setting a desired start time for executing an operation by rotating a time selector member (Col. 18, lines 1-3; Col. 9, lines 46 – Col. 10, line 59). McGeorge clearly teaches a clean operation is an operation (Col. 10, lines 6-7; Col. 17, lines 55-62). A display prompts the user with "START TIME" (Col. 10, lines 10-24; Col. 17, line 67 – Col. 18, line 1) and the display displays the start time being entered by the user (Col. 10, lines 10-24; Col. 18, lines 1-3; Figs. 1-5; Col. 5, lines 43-51). The display is in a frame means with a visual display unit adapted to be secured to a cooking apparatus (Col. 4, lines 10-16). McGeorge clearly states that when "it is desired to select a delayed start time for either cooking or cleaning operation, the mechanical oven function selector dial (not shown) remains in its "off" position" (Col. 10, lines 6-9). Then after the start time has been set and displayed to the user (Fig. 3; Col. 10, lines 10-37), the manual selector for the cooking apparatus "is then turned to the desired cooking mode thereof or to the clean position thereof" (Col. 10, lines 38-42). McGeorge goes on to teach how the selector member 103 in figure 5 does indeed cause the display unit to display the word "CLEAN" (Col. 13, lines 36-53; Col. 16, lines 22-35) after being incremented to do so by turning it (Col. 12, lines 11-68), wherein a timed cleaning cycle is

Art Unit: 2125

automatically initiated using the delayed timing control mechanism (Fig. 3, element 35; Col. 9, line 46 – Col. 10, line 59). The selector is a switch (Col. 11, lines 34-35; Col. 12, line 42).

Examiner respectfully asserts that using a selector to display the word “CLEAN” as per the teachings of embodiment 100 of figure 4 (Col. 13, lines 36-53), wherein a timed cleaning cycle is automatically initiated in accordance with the teachings of embodiment 35 of figure 3, wherein the cleaning operation is initiated by the selector only after the delayed start time has been set and displayed to the user, as per the teaching of embodiment 35 of figure 3 (Col. 10, lines 6-42), is means for displaying a maintenance item after said predetermined sign is displayed in response to a predetermined operation of a switch provided on said operating panel.

Referring to claims 2 and 6, McGeorge teaches the cooking utensil above, wherein the execution time is defined as a time when a standard date set in a predetermined cycle based on a calendar function expiring, wherein the set execution time can be arbitrarily changed (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

Referring to claims 7, 20, and 24, McGeorge teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work (Col. 11, lines 1-17).

Referring to claim 8, McGeorge teaches the cooking utensil above, wherein, after the information has been called off, a next execution time can be automatically set on the same cycle condition (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

While McGeorge sufficiently teaches means for setting an execution time for executing items, such as cooking or cleaning (Col. 10, lines 6-9), examiner asserts that cooking is not maintenance. Therefore, McGeorge fails to teach maintenance items.

However, Sargunam teaches a self-cleaning microprocessor controlled oven wherein the self-cleaning process uses two, timed, self-cleaning stages (Col. 3, lines 19-62; Fig. 3 of '211).

Examiner respectfully submits that the claims, as such, do not require that the maintenance items be different maintenance items.

Furthermore, examiner asserts that mere duplication of parts for multiple effects of a device involves only routine skill in the art. In re Harza, 274 F.2d 669, 671, 124, USPQ 378, 380 (CCPA 1960).

Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made have two maintenance items as taught by Sargunam.

One of ordinary skill in the art would have been motivated to combine these references because Sargunam teaches an improved pyrolytic self-cleaning gas oven for cleaning an oven cavity which is simple, effective, and economical, with a two stage self-cleaning process that obviates the need for a separate broil element and removes hardened cooking residues without producing unacceptable levels of smoke (Col. 1, line 51 – Col. 2, line 15 of '211).

12. Claims 4, 11, 12, 18, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,918,293 to McGeorge in view of U.S. Pat. No. 5,964,211 to Sargunam, and further in view of U.S. Pat. No. 5,186,097 to Vaseloff.

Art Unit: 2125

Referring to claim 18, McGeorge teaches the cooking utensil above, wherein the execution time is defined as a time when a standard date set in a predetermined cycle based on a calendar function expiring, wherein the set execution time can be arbitrarily changed (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

Referring to claim 22, McGeorge teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work (Col. 11, lines 1-17).

Referring to claims 4, 11, and 12, McGeorge fails to teach the cooking utensil above, wherein the execution time is defined as a time when a cumulative value of the number of times of the operation of the heating means has reached a predetermined standard number of times.

However, referring to claims 4, 11, and 12, Vaseloff teaches analogous art, a cooking utensil wherein the execution time is defined as a time when a cumulative value of the number of times of the operation of the heating means has reached a predetermined standard number of times (Col. 8, lines 42-48). Vaseloff teaches a “cooking counter” that counts the number of times the baskets are placed in the oil, wherein the number is pre-programmed. Furthermore, Vaseloff teaches the number is used to sound an alarm and display a message to filter the oil.

Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to combine the microprocessor programming maintenance of McGeorge and Vaseloff.

One of ordinary skill in the art would have been easily motivated to combine these references because Vaseloff teaches a cooking apparatus which dynamically modifies a cooking

Art Unit: 2125

energy profile for use during a cooking cycle and a programmed processor for controlling the heater in accordance with a programmed control algorithm (Col. 1, line 53 – Col. 2, line 38 of '097).

13. Claims 3, 17, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pat. No. 4,918,293 to McGeorge in view of U.S. Pat. No. 5,964,211 to Sargunam, and further in view of U.S. Pat. No. 5,331,575 to Koether.

Referring to claim 17, McGeorge teaches the cooking utensil above, wherein the execution time is defined as a time when a standard date set in a predetermined cycle based on a calendar function expiring, wherein the set execution time can be arbitrarily changed (Col. 8, line 65 – Col. 9, line 11; Col. 9, line 30 – Col. 10, line 68; Col. 5, line 21 – Col. 6, line 68; Col. 11, line 51 – Col. 12, line 30).

Referring to claim 21, McGeorge teaches the cooking utensil above, wherein, after informing the execution time, said information is automatically called off by performing the corresponding maintenance work (Col. 11, lines 1-17).

Referring to claim 3, McGeorge fails to teach the cooking utensil above, wherein the execution time is defined as a time when a cumulative value of the operating time of the heating means has reached a predetermined standard time.

However, referring to claim 3, Koether teaches analogous art, a cooking utensil wherein the execution time is defined as a time when a cumulative value of the operating time of the heating means has reached a predetermined standard time, wherein the set execution time can be arbitrarily changed (Col. 3, lines 49-62).

Art Unit: 2125

Therefore, it would have been obvious to one of ordinary skill in the art at the time that the invention was made to combine the microprocessor programming maintenance of McGeorge and Koether.

One of ordinary skill in the art would have been motivated to combine these references because Koether teaches a programmed cooking computer with an improved technique of determining when a filter, i.e., maintenance operation must occur and for determining when to change the shortening (Col. 3, lines 23-42 of '575).

Double Patenting

A rejection based on double patenting of the "same invention" type finds its support in the language of 35 U.S.C. 101 which states that "whoever invents or discovers any new and useful process ... may obtain a patent therefor ..." (Emphasis added). Thus, the term "same invention," in this context, means an invention drawn to identical subject matter. See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*, 245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970).

A statutory type (35 U.S.C. 101) double patenting rejection can be overcome by canceling or amending the conflicting claims so they are no longer coextensive in scope. The filing of a terminal disclaimer cannot overcome a double patenting rejection based upon 35 U.S.C. 101.

14. Applicant is advised that should claims 11 or 7 be found allowable, claims 12 or 20, respectively, will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof.

When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP

§ 706.03(k).

Response to Amendment

Art Unit: 2125

15. Applicant submits that claim 8 has been amended to change "... the same cycle condition" to "... a same cycle condition" (See page 23, last full paragraph of the Amendment filed January 30th 2004), however, examiner is unable to find any such amendment.

Response to Arguments

16. Applicant's arguments with respect to claims 1-4, 6-8, 11, 12, 17, 18, 20-22, and 24 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

17. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents or publications are cited to further show the state of the art with respect to a cooking utensil with different maintenance items

Art Unit: 2125

U.S. Pat. No. 4,636,949 to Longabaugh (Col. 15, lines 8-25; Col. 7, lines 48-64).

U.S. Pat. No. 4,864,498 to Pasquini (Abstract).

The following patents or publications are cited to further show the state of the art with respect to a cooking utensil that displays cleaning operations (See Figures).

U.S. Pat. No. 6,255,630 to Barnes.

U.S. Pat. No. 5,438,180 to Eisenbrandt.

19. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean P. Shechtman whose telephone number is (703) 305-7798.

The examiner can normally be reached on Monday-Friday from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo P. Picard, can be reached on (703) 308-0538. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-9600.

SPS

Sean P. Shechtman

April 7, 2004



LEO PICARD
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100